

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year)	0 8 NOV 2004
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Applicant's or agent's file reference
10-334AU

FOR FURTHER ACTION
See paragraph 2 below

International application No.

PCT/NZ2004/000177

International filing date (day/month/year)

9 August 2004

Priority date (day/month/year)

9 August 2003

International Patent Classification (IPC) or both national classification and IPC

Int. Cl. ⁷ **A01K 11/00, G09F 3/00**

Applicant

ALLFLEX AUSTRALIA PTY LIMITED et al

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU

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**WRITTEN OPINION OF THE
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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 3, 7, 9 to 19	YES
	Claims 1, 2, 4 to 6, 8, 20	NO
Inventive step (IS)	Claims 3, 9, 11 to 19	YES
	Claims 1, 2, 4 to 8, 10, 20	NO
Industrial applicability (IA)	Claims 1 to 20	YES
	Claims	NO

2. Citations and explanations:

The following documents identified in the International Search Report have been considered for the purposes of this report:

- D1 WO 2003/000045 A1 (Agresearch Limited)
- D2 EP 1 060 662 A1 (Pragmatic Network Creations ETS)
- D3 WO 2003/034815 A1 (Reyflex)
- D4 DE 20101015 U1 (Agrobiogen GmbH Biotechnologie)
- D5 WO 1998/047351 A1 (Avid Identification Systems, Inc.)

Novelty (N) Claims 1, 2, 4 to 6, 8, 20

Claim 1

The invention defined in Claim 1 is not considered to be novel in light of D1 and D2. For example, D1 discloses a system for identification of animals, the system including an animal identification device (1) adapted for application to an animal (2) and a device (4) for secure storage of organic material taken from the animal (Page 10, lines 8 to 10) to be identified by the identification device (1), the storage device (4) and identification device (1) each being marked with a common identifier (Page 10, lines 3 to 7). The invention is therefore not considered to be novel.

Claim 2

The additional features of Claim 2, ie the identification device and storage device being mounted in a holder, is considered to be disclosed by the tool 20 in D2.

Claims 4 to 6

The identification device being an ear tag, as defined in Claim 4, is explicitly disclosed in D1 (Page 1, lines 10 to 11) and D2 (Paragraph 0001, lines 1 and 2), which also disclose the ear tag being two-piece as defined in Claim 5, while the storage device being removably secured as defined in Claim 6 is disclosed in portion 4 of D1. These inventions are not considered to be novel.

Claim 8

The common identifier being an alpha, numeric or alphanumeric, as defined in Claim 8 is explicitly disclosed in Figure 1C of D1, hence it is not considered to be novel.

Claim 20

The method of identification of an animal as defined in Claim 20, is not considered to be novel in light of D1 and D2. For example, D1 discloses a method of identification of an animal including providing an animal

Cont'd

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 11 is not clear because there is no clear antecedent for "the tray" (line 1) when Claim 11 is appended to Claim 2. This feature is not defined until Claim 3.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: V Reasoned Statement

Novelty (N) (Cont'd)

Claim 20 (cont'd)

identification device (1) marked with an identifier marking (Page 10, lines 3 and 4), a secure storage device (4), the secure storage device (4) also being marked with the same identifier marking (Page 10, lines 5 to 7), taking a sample of organic material from the animal (Page 10, lines 8 to 10) and placing the sample in the secure storage device (4) and applying the identification device (1) to the animal and placing the storage device in a secure storage facility.

Inventive Step (IS) Claims

Claims 1 and 2

As above

Claim 1

The combination of citations D3 and D4, such a combination being obvious to the person skilled in the art, results in the invention defined in Claim 1, which is not considered to involve an inventive step. D3 discloses an animal identification system including an animal identification device (1) adapted for application to an animal and a device (22) for secure storage of organic material, while D4 discloses the use of such devices being marked with a common identifier (Figure 1). The invention as defined in Claim 1 is therefore not considered to involve an inventive step.

Claims 4 to 6

As above

Claim 7

Although no individual citation discloses the identification device also formed of by an electronic identification device, such device as disclosed in D5, and its addition is not considered to involve an inventive step.

Claim 8

As above

Claim 10

The common identifier being part of a unique number of an electronic identification device is explicitly disclosed in both D1 and D2, hence its inclusion does not involve an inventive step.

Claim 20

As above